

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO.: 24-cr-60080-MD-1

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTINE PETITFRERE,

Defendant.

**DEFENDANT PETITFRERE'S
MOTION FOR DOWNWARD VARIANCE**

The Defendant, **CHRISTINE PETITFRERE** (“Petitfrere”), through undersigned counsel, does not object to any facts or calculation of the advisory guidelines imprisonment range of 46-57 months based upon a total offense level of 23 and criminal history category of I contained in the Presentence Investigation Report (“PSR”) [DE36:18]. Instead, Petitfrere objects to the PSR’s failure to identify any factors that warrant a downward variance, [DE36:20], and submits that the following various grounds, singularly or in combination, justify a downward variance, and the imposition of a non-incarcerative sentence that is sufficient, but not greater than necessary, to satisfy the factors set forth in 18 U.S.C. §3553(a).

I. Petitfrere’s children will lose their caretaking and financial support if Petitfrere is incarcerated

Courts have relied upon the Commission’s policy statements found in U.S.S.G. §5H1.6¹ which address whether a departure is appropriate based on family ties and responsibilities in

¹ That criteria includes:

- (i) The defendant’s service of a sentence within the applicable guideline range will cause a

sentencing when considering a variance. *See United States v. Gooch*, 2022 WL 1747334, *1 (M.D.Fla.).

The PSR provides the following personal and family data about Petitfrere:

54. Petitfrere has never been married. Lexis/Nexis records did not reflect any marriage records for the defendant; however, as the result of a relationship with Lucien Richard, age 35, they have one child. Amori Richard, age 11, has Attention Deficit Hyperactivity Disorder. Mr. Richard resides in Miami. The defendant advised that Mr. Richard provides voluntary financial support for their son and child support was never court ordered. They have joint custody. According to the Florida Comprehensive Case Information System (CCIS), child support has not been ordered.

55. The defendant has a daughter, Aimee Petitfrere, age two, as the result of an approximate three year relationship with Anthony Petitfrere, age 25. He has the same last name as the defendant. Cristine, Anthony and their daughter reside together in Miramar, Florida. He is employed as a church musician and earns \$1,200 monthly. Aimee attends speech therapy due to being developmentally delayed and she is being evaluated for occupational therapy.

[DE36:13]. However, the PSR paints a woefully incomplete picture of the dire circumstances facing her children if Petitfrere is incarcerated.

substantial, direct, and specific loss of essential caretaking, or essential financial support, to the defendant's family.

(ii) The loss of caretaking or financial support substantially exceeds the harm ordinarily incident to incarceration for a similarly situated defendant. For example, the fact that the defendant's family might incur some degree of financial hardship or suffer to some extent from the absence of a parent through incarceration is not in itself sufficient as a basis for departure because such hardship or suffering is of a sort ordinarily incident to incarceration.

(iii) The loss of caretaking or financial support is one for which no effective remedial or ameliorative programs reasonably are available, making the defendant's caretaking or financial support irreplaceable to the defendant's family.

(iv) The departure effectively will address the loss of caretaking or financial support.

U.S.S.G. §5H1.6, cmt. N.1(B).

With respect to Petitfrere's 12 year old son Amori Richard, he was diagnosed with ADHD Combined Behavioral and Emotional Disorder in 2017, and has attended AEF Schools, 4650 SW 61 Avenue, Ft. Lauderdale, Florida 33314 with an IEP and 504 plan with state vouchers for three years. Amori has severe difficulties focusing and requires the structure Petitfrere provides at home. Petitfrere is solely responsible for taking Amori for all his medical appointments, including to renew his prescription for Adderall and monthly visits to Pediatric Associates in Miramar. While Petitfrere shares custody of Amori with his father, Lucien Richard ("Richard"), the latter is not financially solvent to provide any support for Amori, as Richard is dependent on his mother, with whom he lives, and is unemployed.

Petitfrere's other child, two-year old daughter Aimee Petitfrere, presents more compelling challenges which require Petitfrere's continued emotional, medical, and financial support. On July 24, 2024, Myia Lewis, a Speech Language Pathologist diagnosed Aimee with "moderate-severe receptive-expressive language disorder."² Language therapy is recommended to increase receptive-expressive language skills. Prognosis for improvement is favorable at this time based on weekly therapy and parental involvement." The recommended frequency of the language therapy is two times a week for 30-minute sessions. Petitfrere not only takes Aimee to all medical and therapeutic appointments but drops her off and picks her up from daycare weekdays. Anthony Petitfrere, Aimee's father, is unavailable to assist Petitfrere with any support, as he has been incarcerated in Broward County pending trial on state armed robbery

² Attached as Exhibit A is a redacted copy of that evaluation. Ms. Lewis found that "[b]ased on a comprehensive developmental language assessment of Aimee's receptive and expressive communications abilities,... Aimee's standard score of 73 on the Auditory Comprehension subtest falls within 2 standard deviations (SD) below the mean with an age equivalency of 2 years 9 months when compared to same-aged peers [and her] standard score of 69 on the Expressive Communication subtest falls within 2 standard deviations (SD) below the mean with an age equivalency of 1 year, 9 months when compared to same-aged peers."

charges with no bond since November 17, 2024.³ Since Petitfrere remains gainfully employed full-time with Logistics Health Solutions as a customer service representative and no other family member is available to take custody of or care for Aimee, any term of incarceration for Petitfrere would result in Aimee entering foster care, and suffering from the loss of the care and support Petitfrere provides her.

Because any extended period of incarceration will significantly affect the immediate and long-term irreplaceable care Petitfrere provides for her children and lead to displacement from their current residence, a variance based on the adverse consequences imprisonment will have on Petitfrere's children warrants a downward variance and non-prison sentence. *Cf. United States v. Minefield*, 2024 W 4227045, *2 (M.D.Fla.) (based on her child's autism and ADHD, the "far worse" impact defendant's incarceration would have on child with disabilities, and that no other family member would be available to care for child, who "would likely be forced to enter foster care", district court varied downward from the bottom of defendant's guidelines range of 18 months imprisonment, and sentenced defendant for false tax return violations to probation, special condition 14 months home detention, followed by five years supervised release term); *United States v. Gooch*, 2022 WL 1747334 (M.D.Fla.) (district court granted downward variance after defendant plead guilty to theft of government property, sentenced the defendant to one day incarceration, followed by three years supervised release, special condition that first year be served in home confinement, based on her and her husband's care of six children, two with autism, one with severe depression and was suicidal, and another with Tourette Syndrome, who require a substantial amount of care that defendant's husband was unaccustomed to providing);

³ Attached as Exhibit B is a copy of the complaint affidavit. Assuming the veracity of its narrative, it is likely that Anthony Petitfrere will be unavailable to care for Aimee at least until she reaches adulthood.

United States v. Jeter, 2017 WL 6327780, *2 (M.D.Pa.2017) (district court granted variance and sentenced defendant to 78 months in prison – 30 months below advisory guideline range – based upon defendant’s “long-term depression for which he had recently begun treatment which was helping him and reduced the chance of recidivism, and [defendant]’s mother’s poor health as well as the fact that he was her only support.”); *United States v. King*, 201 F.Supp.3d 167, 172, 169 (D.D.C.2016) (defendant, who plead guilty to having “completed tax returns that sought tax refunds, knowing full well that the information she provided on the tax returns was false and the claims for tax refunds were fraudulent [and] establish[ing] multiple bank accounts for the purpose of hiding the deposit of multiple refunds,” sentenced to three years supervised release with condition of home confinement from 7pm to 6am, because the defendant’s 7-year old daughter was “totally reliant on her mother” and there was “no other family member could care for [her] if [the defendant] were incarcerated”).

II. Lack of prior criminal

Prior to this case, Petitfrere has never been arrested for any criminal violation. [DE32:8]. See *Jean v. United States*, 2018 WL 587893, *1 (M.D.Fla.2018) (district court varied downward from guidelines range of 151-188 months imprisonment to 120 months in prison based, in part on the defendant’s age at the time of the offense and his lack of criminal history); *United States v. Otano*, 679 Fed.Appx. 776, 780 (11th Cir. 2017) (although guidelines range was 292-365 months imprisonment, the district court granted downward variance and sentenced defendant to 144 months in prison based on the defendant’s lack of criminal history and the need to avoid unwarranted sentencing disparities); *United States v. Contreras*, 450 Fed.Appx. 909, 914 (11th Cir. 2012) (where total adjusted offense level was 18, yielding a guidelines range of 27-33 months imprisonment, district court found that defendant’s lack of criminal history warranted a

downward variance and an 18 month term of imprisonment).

III. Low risk of recidivism

Petitfrere's post-arrest conduct, including her remorse, compliance with all rules while on pretrial release, truthful cooperation with the USPO in the preparation of the PSR, and that her misconduct was an aberration of character from an otherwise law-abiding life, demonstrates that she will never engage in any similar misconduct ever again, and thus, presents a very low risk of recidivism. *Cf. United States v. Campbell*, 762 Fed.Appx. 877, 879 (11th Cir. 2019) ("44-month downward variance reflected the court's consideration of Campbell's characteristics (including his age, low risk of recidivism, and family relationship and of the seriousness of his criminal history").

Respectfully submitted,

/s/ Larry Robert Handfield
Larry Robert Handfield, Esq.
Florida Bar No. 330590
4770 Biscayne Boulevard, Suite 1250
Miami, Florida 33137
Tel.: 305-576-1011
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was tendered via CM/ECF to the Clerk of the Court, and via email to Assistant United States Attorney Matthew A. Robinson at matthew.a.robinson@usdoj.gov, and to USPO Clifford McKinney at Clifford_McKinney@flsp.uscourts.gov, on this 23rd day of December 2024.

/s/ Larry Robert Handfield
Larry Robert Handfield, Esq.

EXHIBIT A



Transcend Therapy Services LLC
 9000 Sheridan Street, Pembroke Pines FL 33024, Suite 107
 Phone number: (754) 201-9391
 Fax number: (754) 228-0955
 Email: Transcendtherapyservices@gmail.com

COMMUNICATION EVALUATION

PATIENT: Amice Petitfrere
 DATE OF BIRTH: [REDACTED] CA: 2 years, 3 months
 GUARDIANS: Christine Petitfrere D.O.E: 07/24/2024
 ADDRESS: [REDACTED] Miramar FL 33025
 PHONE: [REDACTED]
 EXAMINER: Myia Lewis M.S.CCC-SLP
 PHYSICIAN: Oyadiran Olabisi MD
 ALLERGIES: None reported
 THERAPEUTIC DX: F80.2 Expressive/receptive language disorder

BACKGROUND INFORMATION

PERTINENT HISTORY: Amice, a 2-year, 3-month-old female, was seen at Transcend Therapy Services for a speech-language evaluation due to parental concerns regarding her communication skills. She had a normal birth and was born after 9 months. In terms of medical history, Amice has had no serious injury/surgery and is not on any medication. She has had ear infections and flu. No concerns with hearing.

Amice's mother has expressed concerns regarding her speech and language development. She noted that she does not speak in complete sentences or provide gestures, and at times will repeat words. She expressed that Amice is easily frustrated when not understood and part takes in undesirable behaviors such as screaming/tantrum. Her mother reported that English is the primary language at home. The teacher reported that Amice does not speak or point when she wants something, socially she plays alone, but she does follow simple directions.

DEVELOPMENTAL HISTORY:

On target.

ASSESSMENTS

1. Client Intake Form
2. *Preschool Language Scales-Fifth Edition Spanish (PLS-5)*
3. Informal Observation
4. Parent Interview

EVALUATION RESULTS/ SUMMARY

LANGUAGE

The PLS-5 Spanish was administered to obtain a comprehensive developmental language assessment of Amice's receptive and expressive communication abilities. The test has a mean of 100 and a standard deviation of +/- 15. Thus, standard scores between 85-115 are within normal limits. The following table represents Amice's standard scores, age equivalents, and percentile ranks for both receptive and expressive.

	Standard score	Percentile	Age equivalency
Auditory Comprehension	73	4	2-9
Expressive Communication	69	2	1-9

Amice Petitfrere

[REDACTED]



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Amiee's standard score of 73 on the Auditory Comprehension subtest falls within 2 standard deviations (SD) below the mean with an age equivalency of 2 year 9 months when compared to same-aged peers. Receptively, she showed strength in her ability to identify some objects. She was able to use pointing or gestures to describe basic body parts, recognize actions in pictures, engage in symbolic play and make inferences. She showed difficulty with understanding descriptive concepts, actions, pronouns, and negatives in sentences.

Amiee's standard score of 69 on the Expressive Communication subtest falls within 2 standard deviations (SD) below the mean with an age equivalency of 1 year, 9 months when compared to same-aged peers. Expressively, AP was very quiet and struggled to show strength in her ability to use words for a variety of pragmatic functions. She did use gestures to communicate and named some objects in photographs.

Pragmatically, Amiee did not use words independently, she did use pointing, or gestures when communicating. She also used imitation.

Amiee was very quiet and did not talk much.

Amiee voice, fluency and articulation was informally observed and deemed appropriate for her age and gender.

CLINICAL OBSERVATION:

Amiee followed simple directions. She whispers when imitating others.

CLINICAL IMPRESSIONS

Amiee, a 2 year 3-month-old female, presents with a moderate-severe receptive-expressive language disorder. Language therapy is recommended to increase receptive-expressive language skills. Prognosis for improvement is favorable at this time based on weekly therapy and parental involvement.

RECOMMENDATIONS

Language therapy is recommended two times a week for 30-minute sessions.
Hearing Screening.

LONG-TERM GOALS:

1. To improve expressive language.
2. To improve receptive language.
3. To improve pragmatics.

SHORT-TERM GOALS:

To increase expressive language, Amiee will produce 2-3 or more words to request/command/comment given verbal/visual prompts in 4 out of 5 opportunities.

To increase receptive language, Amiee will follow simple 1-2 step directions given minimal verbal/visual with 80% accuracy.

To increase receptive language, Amiee will identify common objects (colors, animals, letters, household items etc.) given minimal verbal/visual with 80% accuracy.

To increase receptive language, Amiee will identify verbs in pictures given minimal verbal/visual with 80% accuracy.

Amiee Petitfrere

DATE: 04/11/2024



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Phone number: (754) 201-9391
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To increase pragmatic skills, Amicee will take turns appropriately during structured activities with a peer given minimal prompts in 4 out of 5 opportunities.



Myia Lewis, CCC-SLP
Speech Language Pathologist

07/24/24

Date

Oyadiran Olabisi MD

Date

Amicee Petitfrere

[Redacted]

EXHIBIT B



Broward County Sheriff's Office

24-12596

FP

Booking Report



CIS #	592400822	BCCN #	980188	Booking Sheet Control Date and Time
OBTS	607355149	Print Clearance	11/17/24 20 02.11	11/18/24 00:36:13

Arrest #	DN 2400822	Offense Report #	02-2411-001783	Agency	DANIA BEACH
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Last Name First Middle	PETIT FRERE, ATHANASE	SSN #	****
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Race	Sex	Height	Weight	Eyes	Hair	Comp.	Age Admitted	DOB	Place of Birth	State	FDLE
B	M	509	250	BRO	BLK	DRK	25	10/22/1999		HAITI	0

Permanent Address	4324 SW 121 ST LN Apt# :204 MIRAMAR FL 33025	Months of Residence	0
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Arrest Date	11/17/24 18:26 00	Place of Arrest	I95 / HOLLYWOOD BLVD	Arresting Officer	19218 WILLOUGHBY
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Inmate Logged Date	11/17/24 19 43 00	Inmate Log Type	FULL INTAKE	Place Admitted	MAIN
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Intake Comments SP/CO-18052 CH54/29/54-18052 W/C-17834

Alias Last name, First, Middle, DOB PETIT, FRERE,, ANTHANASE,

Warrants Officer Id bs19077

Scars,Marks,Tattoos

Release Date/Time	Release Reason	Release Authorized By
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Charge No.	Charge Initiation Date	Statute	Warrant/Capias	Level	M.C	B. Type	Bond Amount
1	11/18/24 00 01	812.13-2a		1F	Y	HOLD FOR MAG	\$0 00

Charges ROBBERY/FIREARM Comments

Booking Off. ID	bs19496	County	Judge
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Charge No.	Charge Initiation Date	Statute	Warrant/Capias	Level	M.C	B. Type	Bond Amount
2	11/18/24 00 02	322 34-10a(1)		2M		HOLD FOR MAG	\$0.00

Charges NMTV-DRIVE WITH SUSPENDED/REVOKED LICENSE Comments

Booking Off. ID	bs19496	County	Judge
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* End of Report *

SHADED FIELDS MUST BE ANSWERED IF DEFENDANT NOT IN CUSTODY

ARREST FORM

BROWARD COUNTY

ARREST #

OBTS #

Filing Agency BROWARD COUNTY SO		Offense Report 02-2411-001783		Local ID #		FIDE		FBI		SS #	
Defendant's Last Name PETIT FRERE				First ATHANASE		Middle SP		SUF		Citizenship US	
Race B	Sex M	Hgt 5'09	Wgt 250	Hair Black	Eyes Brown	Comp Dark	Age 25	DOB 10/22/1999	Birth Place		
Permanent Address 4324 SW 121 ST LN 204, MIRAMAR, FL 33025								Scars, Marks, TT			
Residence Type: (1) City (2) County (3) Florida (4) Out of State Local Address: 4324 SW 121 ST LN 204, MIRAMAR, FL 33025								Place of Employment		Length	
How long defendant in Broward County		Breathalyzer By/CCN		Reading		Place of Arrest 195 AND HOLLYWOOD BLVD		Date/Time Arrested 11/17/2024 18:26		Arresting Officer(s) CCN WILLOUGHBY, CHRISTOPHER	
Officer Injured: Y <input type="checkbox"/> N <input checked="" type="checkbox"/>		Unit PATR	Zone 0205	Beat	Shift BRAV	Trans Unit		PMD Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Transporting Officer/CCN		Pick-up Time
TYPE / ACTIVITY: 1		Type: N-N/A A-Amphetamine B-Barbiturate C-Cocaine		E-Heroin H-Hallucinogen M-Marijuana O-Opium/Derv		P-Paraphernalia/ Equipment S-Synthetic U-Unknown Z-Other		Activity: N-N/A P-Possess S-Sell B-Buy		T-Traffic A-Smuggle D-Deliver E-Use M-Manufacture/ Produce/Cultivate K-Dispense/ Distribute Z-Other	
		Indication of: Alcohol Influence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> UK <input type="checkbox"/> Drug Influence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> UK <input type="checkbox"/>									

Attach
Defendant's
Photo

Defendant's Vehicle Make: **LEXUS** Type: **01** Year: **2024** Color: **White** VIN# **2T2GDCAZ0R0015339**

Vehicle Towed To: Tag #: **R1U109** Other Identifiers or remarks:

Name of victim(s) (if corporation, exact legal name and state of incorporation)			
Count #	Offenses Charged	WC# / Citation # (if applicable)	FS or Capias/Warrant #
1	ROBBERY-WITH FIREARM		812.13-2A
1	OPERATING WHILE DL SUSPENDED/CANCELLED/REVOKED-NO PRIOR	AKGR2XE (J)JP	322.34-10A

Probable Cause Affidavit

Before me this date personally appeared **WILLOUGHBY, CHRISTOPHER E. (19218)** who being first duly sworn deposes and says that on **17** day of **November**, (year) **2024** at **2600 GRIFFIN RD, DANIA BEACH, FL 33312** (crime location) the above named defendant committed the above offenses charged and the facts showing probable cause to believe the same are as follows

On the above listed date, at the above listed time, the above listed defendant, Athanase Petit Frere, and co-defendant, Williamson Cius, entered the AT&T Retail Store located at 2600 Griffin Road, Dania Beach, FL armed with a firearm with the intent to either permanently or temporarily deprive AT&T of approximately \$15,339.82 in various Apple merchandise, and while doing so, the defendant carried a firearm, violation of FSS 812.13(2)a, Armed Robbery.

*** Continued ***

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated therein are true and correct to the best of my knowledge and belief.

Officer/Affiant's Signature **19218** **WILLOUGHBY, CHRISTOPHER E. (19218)** Officer's Name/CCN **3536** Officer's Division

STATE OF FLORIDA
COUNTY OF BROWARD

Sworn to (or affirmed) and subscribed before me this **17** day of **November**, **2024** (year), by **WILLOUGHBY, CHRISTOPHER E.** (name and title), who is personally known to me or has produced **BSO (C)** as identification

Notary Public, Deputy Clerk of the Court, or Assistant State Attorney **J. Parry** Title/Rank and CCN **015 20083**

Print, Type or Stamp Commissioned Name of Notary Public

(SEAL)

Seventeenth Judicial Circuit
Broward County
State of Florida

FIRST APPEARANCE/ARREST FORM

(SHOULD ADDITIONAL SPACE BE NEEDED, USE THE PROBABLE CAUSE AFFIDAVIT CONTINUATION (BSO DB#2a))

BSO DB-#2 (Revised 05/00)

Ong - Court
2nd - State Attorney
3rd - Filing Agency
4th - Arresting Agency

COURT COPY

SP/CO-18052 CHS4/2a/54-18052 w/c-17834

BROWARD COUNTY

PROBABLE CAUSE AFFIDAVIT CONTINUATION

☒ ARREST FORM

ARREST #

OBTS #

Filing Agency BROWARD COUNTY SO	Offense Report 02-2411-001783	Local ID #	FDUE	FBI	SS #
Defendant's Last Name PETIT FRERE	First ATHANASE	Middle	SUF	Alias/Street Name	Citizenship US
Name of victim(s) (if corporation, exact legal name and state of incorporation)					
Count #	Offenses Charged	WC# / Citation # (if applicable)		FS or Capias/Warrant #	

Probable Cause Affidavit

Before me this date personally appeared WILLOUGHBY, CHRISTOPHER E. (19218) who being first duly sworn deposes and says that on 17 day of November, (year) 2024 at 2600 GRIFFIN RD, DANIA BEACH, FL 33312 (crime location) the above named defendant committed the above offenses charged and the facts showing probable cause to believe the same are as follows.

Witnesses described both subjects as black males and stated they fled eastbound on Griffin Road in a white Lexus SUV toward I95.

Deputies located the subjects traveling southbound on I95 toward Hollywood Blvd approximately 1530 hours with the license plate concealed by a black cloth. A felony stop was conducted, and both defendants were detained. Deputies conducted a show-up and the victims were able to positively identify the suspects and the vehicle.

In plain view, deputies located multiple apple products consistent with the items that the victims described unlawfully taken during the armed robbery.

Both Petit Frere and Cius were transported to 803 NW 1st Street, Dania Beach, FL (BSO Dania Beach District Office) to meet with detectives, at which point Cius provided a post-Miranda statement implicating both Petit Frere and Cius as the individuals that committed the above-mentioned robbery offense.

The entire incident was captured on AT&T store surveillance and uploaded to evidence.com.

A DAVID query revealed the the defendants drivers licence has been suspended since 12/14/2023.

BWC.

I swear the above statement is correct and true to the best of my knowledge and belief

19218 WILLOUGHBY, CHRISTOPHER E. (19218) 3536
 Officer/Affiant's Signature Officer's Name/CCN Officer's Division

STATE OF FLORIDA
 COUNTY OF BROWARD

Sworn to (or affirmed) and subscribed before me this 17 day of November, 2024 (year),
 by WILLOUGHBY, CHRISTOPHER E. (name and title), who is personally known to me or has produced

as identification

J.Parra
 Notary Public, Deputy Clerk of the Court, or Assistant State Attorney

D/S J.Parra 920083
 Title/Rank and CCN

Print, Type or Stamp Commissioned Name of Notary Public

(SEAL)

Seventeenth Judicial Circuit
 Broward County
 State of Florida

FIRST APPEARANCE/ARREST FORM

BSO DB-#2a (Revised 05/00)

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Ong - Court
 2nd - State Attorney
 3rd - Filing Agency
 4th - Arresting Agency